Filed 6/7/19 Pham v. Petkova CA3

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Placer)

QUOC T. PHAM , Appellant, v. NELI PETKOVA, Respondent.	C082343, C085651 (Super. Ct. No. SDR27419)

Quoc T. Pham (father), appearing in propria persona, appeals from numerous court orders. Each of father's claims on appeal fail either because they are not supported by citations to the record, relevant legal authority, or coherent legal argument. Additionally, his appeal from the trial court's ruling on contempt is not properly before this court on appeal. We affirm the orders of the court.

I. BACKGROUND

Father and Neli Petkova (mother) are the parents of R.P. In January 2009, they entered into a stipulation for temporary child support: Father agreed to pay mother $809 each month from December 2008 through April 2009. They entered into a new

stipulation in June 2015, modifying the amount of monthly child support to $500. The June 2015 stipulation was made an order of the court. Included were orders that the parties would exchange their most recent paystubs and tax returns on a quarterly and annual basis, and mother would immediately notify father if her income exceeded $3,300 per month.

On April 12, 2016, father and mother appeared before the trial court, each asking the court to allow them to travel internationally with R.P.: mother to Bulgaria and father to Canada. Following that hearing, on April 29, 2016, the court issued a written order.

In the April 29, 2016, written order, the court noted that, prior to the hearing, the parties reached an agreement in mediation. Father then moved the court for additional "stipulations for [m]other to travel abroad separate and apart from [m]other's request and separate and apart from the agreements they reached in mediation." Father argued that he should not be subject to any measures to prevent him from abducting R.B. while traveling abroad.

The court found "temporary measures to prevent abduction" during travel were appropriate to impose on both parties. Accordingly, the court issued the following order:

"The court will issue a temporary order for the period effective May 1, 2016 through December 31, 2016. If either parent travels outside the United States of America during that time the following orders apply [footnote omitted]:

"[¶] . . . [¶]

". . . Travel is not currently authorized. The court issues this temporary order to authorize travel between the date of the order and December 31, 2016. . . . Should there be any further disagreement regarding travel after December 31, 2016[,] either party may properly file and properly notice for hearing a request for order."

On June 2, 2016, the parties appeared before the trial court on a motion that father filed on April 8, 2016. In his motion, father asked the court to modify child support, award him attorney fees and costs, and order mother to pay for medical costs incurred by

R.P. Following the hearing, the court issued several orders, including a seek work order for mother, an order directing the parties to exchange updated Income and Expense Declarations on or before August 29, 2016, and an order to share equally any uninsured healthcare costs for R.P. The court then set the matter for a child support review hearing on September 14, 2016.

The parties appeared before the court again on September 7, 2016. At the conclusion of that hearing, the court ordered father to pay to mother $563 each month in child support, beginning July 1, 2016. The court reiterated its prior order that the parties share equally in the unreimbursed medical expenses incurred for R.P., denied father's request for attorney's fees, and vacated the seek work order previously imposed on mother. The court imputed mother with a monthly income of $3,031 and, in calculating child support, gave her half a hardship deduction for her second child (a deduction totaling $281) under Family Code section 4071.[1]

On October 14, 2016, father filed a motion seeking clarification of the court's September 7, 2016, order. The court heard father's motion on November 2, 2016. The court found the motion to be one for reconsideration and denied the motion "as an improper motion for reconsideration."

In July 2017, father again moved the trial court for an order modifying child support. In this motion, father asked the court to modify child support retroactive to "the start of mother's full time employment (unknown)." He asked the court to order mother to pay half of the medical expenses incurred by R.P., and to turn over her income tax returns and pay stubs. He also asked the court to give him a hardship deduction for "uninsured losses and medical expenses" under section 4071, when calculating child support.

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[1] Undesignated statutory references are to the Family Code.

In support of his request for a hardship deduction, father alleged that mother moved from New York to Bulgaria in order to deny him a relationship with R.P. Then, in 2005, she promised him she would return to New York with R.P. Relying on her promise, father purchased an apartment in New York in 2006. Mother did not, however, return to New York, but moved with R.P. to California. Father moved to California to have a relationship with R.P. and had to rent out his New York apartment. He said that he lost between $5,100 and $6,800 on that apartment every year until 2016 when he was able to sell it. He claimed a total of "$65,000 in uninsured losses," which he blamed on mother's deception and argued should qualify as a hardship deduction under section 4071.

On July 28, 2017, the trial court received father's order to show cause and affidavit for contempt. Father argued mother should be held in contempt for failing to comply with the court's orders to turn over her financial information to father. The trial court "decline[d] to issue the Order to Show Cause at th[at] time." The court found the issues raised in father's affidavit could be resolved at the hearing already on calendar for September 6, 2017. The court also said that, "in this high conflict case, it bears repeating that all orders of the court remain in full force and effect unless and until vacated or superseded, and failure to comply with the orders of the court can have significant consequences."

Father appeared before the court on September 6, 2017, mother did not attend the hearing. The court accepted as true father's allegation that mother disobeyed the court's orders. The court ruled that mother owed father four dollars each month for child support; father waived that amount. The court denied father's request for a hardship deduction, finding the financial loss he incurred as a result of mother's conduct did not qualify as "catastrophic losses" under section 4071, subdivision (a)(1). The trial court also found father's income to be $7,813 per month, ordered the parties to share equally in

uninsured medical expenses for R.P., and ordered mother to pay father $283 for uninsured medical expenses already incurred for R.P.

Father filed his first notice of appeal on June 28, 2016, appealing from the trial court's April 29, 2016 order. He filed a second notice of appeal on November 8, 2016, appealing from trial court orders issued on June 2, 2016, September 7, 2016, and November 2, 2016. Both of those notices were included in appeal No. C082343.

On September 28, 2017, father filed a third notice of appeal, appealing from court orders issued on August 3, 2017, and September 6, 2017. That notice of appeal began a second appeal, No. C085651. On the court's own motion, we consolidated the two appeals for purposes of decision and argument.

II. DISCUSSION

In a challenge to a judgment, the trial court's judgment is presumed to be correct and the appellant has the burden to prove otherwise by presenting legal authority and reasoned analysis on each point made, supported by appropriate citations to the material facts in the record, or else the argument may be deemed forfeited. (*Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856; *Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785 (*Badie*); *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115-1116.) It is the appellant's responsibility to support claims of error with citation and authority; we are not obligated to perform that function on the appellant's behalf and may treat the contentions as forfeited. (*Lewis v. County of Sacramento* (2001) 93 Cal.App.4th 107, 113 (*Lewis*); *Badie*, *supra*, at pp. 784-785.)

These rules of appellate procedure apply to father even though he is representing himself on appeal. (*Leslie v. Board of Medical Quality Assurance* (1991) 234 Cal.App.3d 117, 121; see also *Nelson v. Gaunt* (1981) 125 Cal.App.3d 623, 638-639; *Wantuch v. Davis* (1995) 32 Cal.App.4th 786, 795.) A party may choose to act as his or her own attorney. We treat such a party like any other party, and he or she " 'is entitled

to the same, but no greater consideration than other litigants and attorneys. [Citation.]' " (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1247.)

A. Travel Restrictions

Father contends the travel restrictions included in the trial court's April 29, 2016, order "should be reversed because there is no substantial evidence supporting the finding by the family court that [he] has been non-cooperative and that [he] poses absolutely no risk for parental abduction . . . ." The April 29, 2016, order was temporary, limited in duration from May 1, 2016, to December 31, 2016. That order has long-since expired. Accordingly, father's appeal from that order is moot.[2]

B. September 7, 2016, Order

Father raises three contentions relative to the court's September 7, 2016, order. He contends the trial court's decision to give mother half a hardship deduction in calculating child support is "not supported by substantial evidence," the court abused its discretion in striking its previously issued seek work order, and the income imputed to mother was too low and not supported by "substantial evidence."

Father does not support these claims with coherent legal argument or citations to relevant authority. We are "not required to examine undeveloped claims, nor to make arguments for parties." (*Paterno v. State of California* (1999) 74 Cal.App.4th 68, 106.)

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[2] Following oral argument, father submitted a letter to this court arguing we should consider his claim even though it is moot because "the issue is capable of repetition." We acknowledge that we may exercise our discretion to decide an "otherwise moot case because it raises important issues that are capable of repetition but likely to evade review." (*In re Lemanuel C.* (2007) 41 Cal.4th 33, 38, fn. 4.) Father's claim, however, does not satisfy these requirements. His claim is particular to the facts of his case, not a matter of continuing public interest, and he has not demonstrated how any future claim is likely to evade review. We therefore decline to address the issue.

Accordingly, each of these claims is forfeited. (*Lewis, supra,* 93 Cal.App.4th at p. 113; *Badie, supra,* 67 Cal.App.4th at pp. 784-785.)

C. Contempt

Father claims the trial court erred in denying his request for an order to show cause why mother should not be held in contempt for failing to comply with the court's orders. His claim is not properly before this court on appeal.

" 'It is well settled that orders and judgments made in cases of contempt are not appealable, and this rule has been held applicable both where the trial court imposed punishment for contempt and where the alleged contemner was discharged. [Citations.] An order or judgment in a contempt matter may, however, be reviewed by certiorari [citations], and, where appropriate, by habeas corpus [citations].' " (*Butler v. Butler* (1967) 255 Cal.App.2d 132, 135.)

The court accepted as true, father's allegation that mother failed to comply with the court's orders to provide father with her financial information. The court did not, however, impose a punishment on mother for her failure to comply. (See Code Civ. Proc., § 1218 [failure to comply with family court orders, punishable by up to 120 hours of community service or up to 120 hours for each count of contempt].) Whether this is a denial of father's request to find mother in contempt, his claim is not cognizable on appeal. (See *Butler v. Butler, supra,* 255 Cal.App.2d at p. 135.)

D. Father's Request for a Hardship Deduction

Father contends the trial court erred in denying his request for a section 4071 hardship deduction in calculating child support. In support of his contention, father argues the financial loss he incurred as a result of mother's alleged unauthorized relocation of R.P. from Bulgaria to California amounted to an uninsured catastrophic loss within the meaning of section 4071, subdivision (a)(1). Father, however, failed to support his contention with a coherent legal argument, supported by relevant authority. The contention, therefore, is forfeited. (See *Scholes v. Lambirth Trucking Co.* (2017)

10 Cal.App.5th 590, 595 (*Scholes*) [claim is forfeited if appellant fails to make a coherent legal argument supported by authority]; *Lewis, supra*, 93 Cal.App.4th at p. 113; *Badie, supra*, 67 Cal.App.4th at pp. 784-785.)

E. Retroactive Modification of Support

"With exceptions not relevant here, section 3653, subdivision (a) states that '[a]n order modifying or terminating a support order may be made retroactive to the date of the filing of the notice of motion or order to show cause to modify or terminate, or to any subsequent date.' (§ 3653, subd. (a); see also 42 U.S.C. § 666(a)(9)(C) [retroactive modification of support order only permissible to date that notice of a pending petition for modification has been given].)' " (*Stover v. Bruntz* (2017) 12 Cal.App.5th 19, 26 (*Stover*).) Father challenges this well-established rule.

Father's over-arching claim is that the rule prohibiting the retroactive modification of support orders violates public policy and the Constitution. He makes numerous arguments to support his claim. Father argues this court's decision in *Stover*, unreasonably shifts the burden of knowledge regarding changed circumstances to the wrong party and "incorrectly assumes that everyone plays by the rule [*sic*] and follows court orders." (Emphasis omitted.) He also argues the duty of disclosure required in dissolution proceedings should be required in child support proceedings, and "the bright-line rule against retroactive modification does not provide stability for children." (Emphasis omitted.)

In addition, father challenges the "bright-line rule" against retroactive modification in Title 42 United States Code section 666, subdivision (a)(9) as an "unconstitutional coercive condition imposed in exchange for states receiving Tittle [*sic*] IV-E [*sic*] incentive funding," (emphasis omitted) and violates parents' substantive due process rights. Finally, he argues the rule prohibiting the retroactive modification of child support is unconstitutional under *South Dakota v. Dole* (1987) 483 U.S. 203 [97 L.Ed.2d 171].

1. Public Policy

Any claim that section 3653 violates the public policy of California is without merit. " 'The Legislature declares state public policy, not the courts. [Citation.] . . . The Legislature has . . . determined *equity is not served by retroactive modification of support orders*, where simplified procedures are available for prospective modification. [Citation.] We may not second-guess those determinations.' " (*In re Marriage of Gruen* (2011) 191 Cal.App.4th 627, 639, quoting *In re Marriage of Tavares* (2007) 151 Cal.App.4th 620.)

2. Stover v. Bruntz, supra, 12 Cal.App.5th 19

Father contends our decision in *Stover* unreasonably shifts "the burden of knowledge" to the wrong party, with respect to demonstrating changed circumstances to modify an order for child support. (Emphasis omitted.) He also contends *Stover* is wrongly decided because our decision is based on the assumption that "everyone plays by the rule[s]" and "follows court orders." We are not persuaded.

In *Stover*, we held that "[a] court order modifying support retroactive to any time period *before* the filing date of a modification motion would . . . violate the governing statutory scheme. Such an act, moreover, would be in excess of the court's jurisdiction. [Citation]." (*Stover, supra*, 12 Cal.App.5th at p. 26.) Our decision was based on the unambiguous language of section 3653, which limits retroactive modification of a support order to the date a motion to modify support is made. (*Stover, supra*, at pp. 25-26; see § 3653, subd. (a).)

What we did not do in *Stover* was shift "the burden of knowledge" to either party. Rather, we noted that " " 'The Legislature has established a bright-line rule that accrued child support vests and may not be adjusted up or down. [Citations.] If a parent feels the amount ordered is too high—or too low—he or she must seek prospective modification.' " (*Stover, supra*, 12 Cal.App.5th at p. 26.) The burden thus is only to file a motion and it is on both parties, whomever wants to modify the order.

3. Duty to Disclose

Sections 2100-2113 provide that parties have a fiduciary duty to disclose their assets and liabilities to each other during a dissolution proceeding. (§§ 2100-2113.) Father contends this same fiduciary duty should be enforceable in child support proceedings. However, he makes no legal argument to support his contention, saying only, "there is no equivalent duty to disclose and no provision for sanction for evading child support obligations by evading disclosure of new employment and income." We will not make his argument for him. (*Paterno v. State of California*, *supra*, 74 Cal.App.4th at p. 106.) The argument is forfeited. (*Scholes, supra*, 10 Cal.App.5th at p. 595.)

4. Stability for Children

Father contends that section 3653 and its prohibition against the retroactive modification of child support does not provide stability for children. Here too, father has failed to support his contention with a coherent legal argument or citation to relevant legal authority. This contention also is forfeited. (*Scholes, supra,* 10 Cal.App.5th at p. 595.)

5. The Constitution

Father claims that section 3653 violates the Constitution in three different ways: (1) it is a coercive condition imposed in exchange for federal funding, (2) it violates substantive due process, and (3) it violates the savings clause.

"A party challenging the constitutionality of a statute carries a heavy burden. The courts will presume a statute is valid unless its unconstitutionality ' " ' "clearly, positively and unmistakably appears" ' " '; mere doubt is not sufficient reason for a judicial declaration of invalidity. [Citations]." (*Mathews v. Becerra* (2017) 7 Cal.App.5th 334, 349.) Father has failed to meet that heavy burden.

F. Request for Judicial Notice

Father asks this court to take judicial notice of the record and briefs filed in appeal No. 82343, as well as an article published by the Congressional Report Service, titled "The Bradley Amendment: Prohibition Against Retroactive Modification of Child Support Arrearages." His request is denied.

III. DISPOSITION

We affirm the orders of the trial court.

/S/

RENNER, J.

We concur:

/S/

MAURO, Acting P. J.

/S/

MURRAY, J.